

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

JOSEPH ROSARIO, et al., individually and on behalf of
all others similarly situated,

Plaintiffs,

-v-

ICON BURGER ACQUISITION LLC d/b/a
SMASHBURGER,

Defendant.

Case No. 21-cv-04313 (JS)(ST)

NOTICE OF MOTION TO DISMISS

PLEASE TAKE NOTICE that upon the accompanying declarations of Gwen Bohlender and Norca Delgado, and attached supporting exhibits, the Memorandum of Law in Support of Defendant's Motion to Dismiss Or, Alternatively, To Compel the Arbitration of Plaintiff Joseph Rosario's Claims, and upon all the pleadings and proceedings herein, Defendant Icon Burger Acquisition LLC d/b/a Smashburger, by and through the undersigned counsel, will move this Court, at a date and time to be determined by the Court, before The Honorable Joanna Seybert, United States District Court Judge, Eastern District of New York, at the United States Courthouse, 100 Federal Plaza, Central Islip, New York 11722, for an order pursuant to Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure granting Defendant's Motion to Dismiss or, alternatively, for an order compelling Plaintiff Joseph Rosario to individually arbitrate—not litigate—his claims pursuant to the Federal Arbitration Act, 9 U.S.C. §§ 3-4, and for such other and further relief as the Court may deem just and proper.

PLEASE TAKE FURTHER NOTICE that, in accordance with the Court's Local Civil Rule 6.1(b), Plaintiffs' opposition is due on April 4, 2022, and Defendant's reply is due on April 11, 2022.

Dated: March 21, 2022
Melville, New York

/s/ Daniel Gomez-Sanchez

Daniel Gomez-Sanchez
Matthew R. Capobianco
LITTLER MENDELSON, P.C.
290 Broadhollow Road, Suite 305
Melville, NY 11747
dsgomez@littler.com
mcapobianco@littler.com
(631) 247-4700

*Attorneys for Defendant
Icon Burger Acquisition LLC*